

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, )  
Plaintiff, ) 17-CR-00154 (WFK)  
V. ) United States Courthouse  
TARA LENICH, ) Brooklyn, New York  
Defendant. ) MONDAY, APRIL 3, 2017  
12:00 noon

TRANSCRIPT OF CRIMINAL CAUSE FOR PLEADING  
BEFORE THE HONORABLE WILLIAM F. KUNTZ II  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT: BRIDGET M. ROHDE  
United States Attorney's Office  
Eastern District of New York  
BY: MARIA CRUZ MELENDEZ  
ROBERT POLEMENI  
Assistant United States Attorneys  
271 Cadman Plaza East  
Brooklyn, New York 11201

FOR THE DEFENDANT: WILSON SONSINI GOODRICH & ROSATI PC  
BY: MORRIS J. FODEMAN, ESQ.  
1301 Avenue of the Americas, 40th Floor  
New York, New York 10019

THE COURT REPORTER: NICOLE CANALES, RPR, CSR  
225 Cadman Plaza East  
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Proceedings recorded by mechanical stenography, transcript  
Produced by Computer-Assisted Transcript.

NICOLE CANALES, CSR, RPR

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1 THE CLERK: U.S.A. versus Lenich, Case Number  
2 17CR00154.

3 Counsel, please state your names for the record.

4 MS. CRUZ MELENDEZ: Good afternoon, your Honor.  
5 Maria Cruz Melendez and Robert Polemeni for the United States.  
6 Maria, M-a-r-i-a, Cruz, C-r-u-z, Melendez, M-e-l-e-n-d-e-z,  
7 Robert, R-o-b-e-r-t, Polemeni, P-o-l-e-m-e-n-i.

8 THE COURT: Good afternoon. Please be seated.  
9 Remain seated during the balance of the conversation.

10 MR. FODEMAN: Good afternoon, Judge. Moe Fodeman,  
11 from Wilson Sonsini Goodrich & Rosati, for the defendant,  
12 Tara Lenich. Also with me is co-counsel, Gary Farrell.  
13 Fodeman is F-o-d-e-m-a-n; first name Morris, M-o-r-r-i-s; and  
14 Gary, G-a-r-y, Farrell, F-a-r-r-e-l-l.

15 Good afternoon, Judge.

16 THE COURT: Good afternoon. You may all be seated.  
17 Thank you.

18 Are there any other counsel who wish to note their  
19 appearance for the record today?

20 Hearing none, Mr. Jackson, would you please swear  
21 the defendant.

22 THE CLERK: Ma'am, please stand and raise your right  
23 hand. You do solemnly swear or affirm that the answers you're  
24 about to give to the Court will be the truth, the whole truth  
25 and nothing but the truth, so help you God?

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1 THE DEFENDANT: I do.

2 THE COURT: Please be seated, ma'am. Thank you.

3 Good morning.

4 THE DEFENDANT: Good morning.

5 THE COURT: I'm going to begin by asking you a few  
6 questions about your background. Where were you born, ma'am?

7 THE DEFENDANT: Worcester, Massachusetts.

8 THE COURT: I'm going to ask you to pull the  
9 microphone closer to you. Speak right into it.

10 THE DEFENDANT: Worcester, Massachusetts.

11 THE COURT: And what is your date of birth?

12 THE DEFENDANT: May 2nd, 1975.

13 THE COURT: And are you a United States citizen?

14 THE DEFENDANT: Yes.

15 THE COURT: Beginning with grammar school, would you  
16 briefly describe your educational background.

17 THE DEFENDANT: I went to grammar school in  
18 Worcester, Massachusetts.

19 THE COURT: You're going to have to keep your voice  
20 up, and speak a little more slowly.

21 THE DEFENDANT: I went to grammar school in  
22 Worcester, Massachusetts.

23 THE COURT: Which school?

24 THE DEFENDANT: Nelson Place (phonetic) was the name  
25 of it. I then moved with my family to Connecticut, where I

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1 attended Cider Mill School from fourth to sixth grade, and  
2 then Middlebrook Middle School, as well as Wilton High School  
3 for four years. I then went to Colby College for four years,  
4 and then I went to law school at Emory Law School.

5 THE COURT: And when did you graduate from Emory Law  
6 School?

7 THE DEFENDANT: 2003.

8 THE COURT: When were you admitted to the bar?

9 THE DEFENDANT: 2003, in New York, and 2004, in  
10 Connecticut.

11 THE COURT: Have you taken any drugs, any medicine,  
12 any pills, or consumed any alcoholic beverage within the past  
13 24 hours?

14 THE DEFENDANT: No.

15 THE COURT: You understand what is happening here  
16 today?

17 THE DEFENDANT: Yes.

18 THE COURT: Defense counsel, do you have any doubt  
19 as to the defendant's competence to proceed, at this time?

20 MR. FODEMAN: No, your Honor.

21 THE COURT: Prosecution, do you have any doubt as to  
22 the defendant's competence to proceed, at this time?

23 MS. CRUZ MELENDEZ: No, your Honor.

24 THE COURT: The Court hereby finds based on the  
25 defendant's representations and the representations of all

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1 counsel of record that the defendant is competent to proceed.  
2 The Court has marked the Indictment as Court Exhibit 1 for  
3 identification.

4 May I have a motion to admit Court 1 into evidence?

5 MR. FODEMAN: So moved, Judge.

6 THE COURT: Any objection?

7 MS. CRUZ MELENDEZ: No objection.

8 THE COURT: The Indictment is now admitted into  
9 evidence as Court 1. I will now read the Indictment.

10 The grand jury charges. Introduction to all counts.  
11 At all times relevant to this indictment, unless otherwise  
12 indicated:

13 I. The Kings County District Attorney's Office:

14 One: The Kings County District Attorney's Office,  
15 also known as the Brooklyn District Attorney's Office, ("the  
16 KCDA"), was a government agency responsible for investigating  
17 and prosecuting New York State and local criminal offenses in  
18 the borough of Brooklyn, New York. Assistant District  
19 Attorneys, quote, ("ADAs"), at the KCDA were responsible for  
20 investigating and prosecuting such criminal offenses.

21 II: Procedures for gathering certain evidence.

22 Two: In order to investigate and prosecute such  
23 criminal offenses, ADAs have authority to gather evidence in a  
24 variety of ways, for example, ADAs were authorized by law to  
25 apply for orders and warrants to be issued by a judge of a

1 competent court, such as justices of the New York State  
2 Supreme Court, to search electronic media stored by  
3 telecommunications provider, or to intercept oral or  
4 electronic communications transmitted to and from particular  
5 telephones.

6 To attain such orders and warrants, ADAs were  
7 authorized to submit applications to judges that include sworn  
8 affidavits from law enforcement personnel. If a judge  
9 considering such an application was satisfied that the  
10 application met the relevant legal standard, the judge issued  
11 a search warrant and written order, authorizing the search or  
12 interception, which the ADA or other KCDA staff served on the  
13 telecommunications provider by facsimile or other similar  
14 method.

15 Three: ADAs also gathered evidence by issuing, in  
16 the name of the sitting grand jury, subpoenas for stored  
17 records. ADAs often issued such grand jury subpoenas to  
18 telecommunications providers for stored records pertaining to  
19 particular subscribers. ADAs were permitted to issue a grand  
20 jury subpoena if the ADA had a good faith basis to believe  
21 that the information sought by the subpoena was relevant to a  
22 criminal investigation the ADA was conducting.

23 Four: As ADAs understood, state and federal law  
24 imposed rules governing the acquisition of such evidence and  
25 the use of such evidence-gathering techniques. As ADAs also

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1 understood, they held a position of public trust that required  
2 them to follow these laws.

3 III: The Defendant's Scheme to Illegally Eavesdrop.

4 Five: The defendant, Tara Lenich, was employed as  
5 an ADA and a KCDA. As part of her job responsibilities at the  
6 KCDA, Lenich was responsible for supervising other ADAs.

7 A: Cellular Telephone 1.

8 Six: In or about and between June 2015 and  
9 December 2015, the defendant, Tara Lenich, forged the  
10 signatures of various New York State Supreme Court Justices on  
11 documents that purported to be judicially authorized orders.  
12 These forged signatures purported to authorize the KCDA and  
13 other law enforcement agencies to intercept and record oral  
14 and electronic communications transmitted to and from a  
15 particular cellular telephone line, the assigned number and  
16 subscriber information of which is known to the grand jury,  
17 (Cellular Telephone 1.)

18 Seven: To accomplish this forgery, the defendant,  
19 Tara Lynch, physically cut a copy of each such judge's  
20 signature from a legitimate document and taped the signature  
21 onto the fraudulent documents she had created. In fact,  
22 Lenich never submitted to any judge any application for  
23 permission to intercept communications transmitted to and from  
24 Cellular Telephone 1, and Lenich was not authorized by the  
25 KCDA to conduct any investigation involving such

1 communications.

2           Eight: The defendant, Tara Lenich, transmitted and  
3 caused to be transmitted the forged orders that she created  
4 with telecommunications company servicing Cellular Telephone 1  
5 ("Provider 1"). Each such forged judicial order purported to  
6 authorize law enforcement officials to intercept and record  
7 the oral and electronic communications transmitted to and from  
8 Cellular Telephone 1 for a period of 30 days.

9           At the end of one or more 30-day periods, Lenich  
10 created and submitted an additional forged order that  
11 purported to authorize the continued interception and  
12 recording of the communications transmitted to and from  
13 Cellular Telephone 1 for an additional 30 days. In total,  
14 Lenich created and submitted to "Provider 1" seven forged  
15 judicial orders to intercept the oral and electronic  
16 communications transmitted to and from Cellular Telephone 1.

17           Nine: After defendant, Tara Lenich, submitted these  
18 fraudulent judicial orders to Provider 1, Lenich  
19 misappropriated KCDA equipment and facilities in order to  
20 illegally intercept and record the oral and electronic  
21 communications transmitted to and from Cellular Telephone 1,  
22 and did illegally intercept, eavesdrop on, and record such  
23 communications.

24           Ten: Also as part of her illegal eavesdropping  
25 scheme, in or about and between May of 2015 and November of



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1 2016, the defendant, Tara Lenich, created and submitted to  
2 Provider 1 forged search warrants, authorizing the seizure of  
3 text messages transmitted to and from Cellular Telephone 1.

4 B: Cellular Telephone 2.

5 Eleven: In or about and between August 2015 and  
6 November 27th, 2016, the defendant, Tara Lenich, also created  
7 another series of similar forged judicial orders, which she  
8 transmitted, and caused to be transmitted, the  
9 telecommunications company, ("Provider Number 2"), servicing  
10 another cellular telephone line, the assigned number and  
11 subscriber information of which is known to the grand jury,  
12 Cellular Telephone 2.

13 Each such forged judicial order purported to  
14 authorize law enforcement officials to intercept and record  
15 the oral and electronic communications, occurring over  
16 Cellular Telephone 2, for a period of 30 days. In total,  
17 Lenich created and submitted to ("Provider 2") 17 forged  
18 judicial orders to intercept the oral and electronic  
19 communications transmitted to and from Cellular Telephone 2.

20 In fact, Lenich never submitted to any judge any  
21 application for permission to intercept communications  
22 transmitted to and from Cellular Telephone 2. Lenich was not  
23 authorized by the KCDA to conduct any investigation involving  
24 such communications.

25 12: After defendant, Tara Lenich, submitted these

1 fraudulent judicial orders to Provider 2, Lenich  
2 misappropriated KCDA equipment and facilities in order to  
3 illegally intercept and record the oral and electronic  
4 communications transmitted to and from Cellular Telephone 2,  
5 and did illegally intercept, eavesdrop on and record such  
6 communications.

7 C: Preventing Detection of the Scheme.

8 Thirteen: To avoid having her illegal eavesdropping  
9 scheme discovered, the defendant, Tara Lenich, lied to other  
10 KCDA employees. Specifically, Lenich informed them that she  
11 was intercepting the communications over Cellular Telephone 1  
12 and Cellular Telephone 2 as part of a confidential law  
13 enforcement investigation that she was conducting, and  
14 instructed them not to listen to, read or otherwise review the  
15 communications granted to and from Cellular Telephone 1 or  
16 Cellular Telephone 2.

17 D: Unlawful Grand Jury Subpoenas.

18 Fourteen: In or about and between June 2015 and  
19 November 27th, 2016, the defendant, Tara Lenich, also created  
20 and submitted several grand jury subpoenas to  
21 telecommunications providers seeking subscriber information  
22 for some of the telephone numbers that communicated Cellular  
23 Telephone 1 and Cellular Telephone 2 during the period Lenich  
24 was illegally eavesdropping on him. Lenich did not have a  
25 good faith basis to believe that the information that she

1 would obtain via these subpoenas was relevant to any ongoing  
2 criminal investigation.

3 Count One: Illegal Interception of Communications  
4 - Cellular Telephone 1.

5 Fifteen: The allegations contained in paragraphs 1  
6 through 14 are realleged and incorporated as set forth fully  
7 in this paragraph.

8 Sixteen: In or about and between June 2015 and  
9 January 2016, both dates being approximate and inclusive,  
10 within the Eastern District of New York and elsewhere, the  
11 defendant, Tara Lenich, without lawful authorization,  
12 knowingly and intentionally intercepted, endeavored to  
13 intercept, and procured another person to intercept and  
14 endeavored to intercept the wire, oral and electronic  
15 communications to others, to wit: oral and electronic  
16 communications transmitted to and from Cellular Telephone 1,  
17 in violation of Title 18 United States Code, Sections  
18 2511(1)(a), 2511(4)(a) and 3551 et sequentia.

19 Count Two: Illegal Interception of Communications -  
20 Cellular Telephone 2:

21 Seventeen: The allegations contained in paragraphs  
22 1 through 14 are realleged and incorporated as set forth fully  
23 in this paragraph.

24 Eighteen: In or about and between August 2015 and  
25 November 2016, both dates being approximate and inclusive,

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1 within the Eastern District of New York and elsewhere, the  
2 defendant, Tara Lenich, without lawful authorization,  
3 knowingly and intentionally intercepted, endeavored to  
4 intercept, and procured another person to intercept and  
5 endeavor to intercept the wire, oral and electronic  
6 communications of others, to wit: Oral and electronic  
7 communication transmitted to and from Cellular Telephone  
8 2 [sic].

9 Title 18, United States Code, Sections 2511(1)(a),  
10 2511(4)(a) and 3551 et sequentia.

11 Criminal Forfeiture Allegation.

12 Nineteen: The United States hereby gives notice to  
13 the defendant that upon her conviction of either of the  
14 offenses charged herein, the government will seek forfeiture  
15 in accordance with Title 18, United States Code, Section 2513  
16 and Title 28, United States Code, Section 2461(c), of any  
17 electronic, mechanical, or other device used, sent, carried,  
18 manufactured, assembled, possessed, sold or advertised, in  
19 violation of Title 18, United States Code, Section 2511(1)(a).

20 Twenty: If any of the above-described forfeitable  
21 property as a result of any act or omission of the defendant:

22 A: Cannot be located upon the exercise of due  
23 diligence;

24 B: Has been transferred or sold to, or deposited  
25 with, a third party;

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1 C: Has been placed beyond the jurisdiction of the  
2 court;

3 B: Has been substantially diminished in value; or

4 E: Has been commingled with other property which  
5 cannot be divided without difficulty.

6 It is the intent of the United States, pursuant to  
7 Title 21, United States Code, Section 853(p), to seek  
8 forfeiture of any other property of the defendant, up to the  
9 value of the forfeitable property described in this forfeiture  
10 allegation.

11 Title 18 United States Code, Section 2513, Title 21,  
12 United States Code, Section 853(p), Title 28, United States  
13 Code, Section 2461(c).

14 A True Bill, signed by the foreperson and signed by  
15 Bridget M. Rohde, R-h-o-d-e, Acting United States Attorney,  
16 Eastern District of New York.

17 Have I accurately read the Indictment that is in  
18 evidence as Court 1?

19 MS. CRUZ MELENDEZ: Yes, your Honor.

20 MR. FODEMAN: Yes.

21 THE COURT: We have a Plea Penalty Sheet in this  
22 case. There is no plea agreement. May I have the Plea  
23 Penalty Sheet, which has been marked as Court Exhibit 2, for  
24 identification.

25 May I have a motion to admit the penalty sheet into

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1 evidence, please?

2 MS. CRUZ MELENDEZ: So moved, your Honor.

3 THE COURT: Any objection?

4 MR. FODEMAN: No, your Honor.

5 THE COURT: It is admitted. I will now read the

6 Plea Penalty Sheet, Exhibit 2, which is in evidence.

7 The Plea Penalty Sheet reads as follows:

8 Caption of this case begins as follows:

9 This is not, underscore, a plea agreement. The  
10 government submits this Plea Penalty Sheet to advise the Court  
11 of the penalties the defendant faces upon pleading guilty to  
12 Counts One and Two of the above-captioned indictment, each  
13 count charging a violation of Title 18, United States Code,  
14 Section 2511(1)(a).

15 A. Statutory Penalties:

16 Each count carries the following statutory  
17 penalties:

18 One: Maximum term of imprisonment: 5 years.  
19 (18 U.S.C. Section 2511(4)(A).

20 Two: Minimum term of imprisonment: 0 years.  
21 (18 U.S.C. Section 25114(a).

22 Three: Maximum supervised release term: 3 years,  
23 to follow any term of imprisonment. If a condition of release  
24 is violated, the defendant may be sentenced to up to 2 years  
25 without credit for prerelease imprisonment for time previously

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1 served on post-release supervision, (18 U.S.C. Section 3583  
2 (b) & (e)).

3 Four: Maximum fine: \$250,000 (18 U.S.C. Section  
4 357(b)(3)).

5 Five: Restitution: Mandatory, to be determined by  
6 the Court at the time of sentencing (18 U.S.C. Sections 3663A  
7 and 3664).

8 Six: \$100 special assessment, (18 U.S.C. Section  
9 3013.)

10 Seven: Criminal forfeiture to be determined at  
11 sentencing. The government will seek forfeiture of all right,  
12 title and interest to any electronic, mechanical or other  
13 device used, sent, carried, manufactured, assembled,  
14 possessed, sold or advertised in violation of Title 18,  
15 United States Code, Section 2511(1)(a), and/or as substitute  
16 assets. (18 U.S.C. Section 2513; 21 U.S.C. Section 853(p);  
17 28 U.S.C. Section 2461(c)).

18 The sentences imposed on Counts One and Two may run  
19 consecutively.

20 B: Guidelines Estimates:

21 1. The guidelines calculation set forth herein are  
22 only estimates and are not binding on the government, the  
23 Probation Department, or the Court. The inclusion of a  
24 downward adjustment under Section 3E1.1 in the estimates  
25 depends on the defendant demonstrating acceptance of

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1 responsibility, elocution (phonetic), and substantive conduct  
2 prior to the imposition of sentence.

3           One: Count One, base offense level  
4 (Section 2H3.1(a)(1) nine, plus abuse of trust. (Section  
5 3B1.3), plus two. Total 11.

6           Two: Count Two: Base offense level.  
7 (Section 2H3.1(a)(1) nine. Plus: Abuse of trust, Section  
8 3B1.3, plus 2. Total 11.

9           Multiple-count analysis, Section 3D1.4.

10           Count One, Level 11, Unit 1, Count Two, Level 11,  
11 Unit 1. Levels added to the highest offense level, plus 2.

12           Adjusted offense level: 13.

13           Less: Acceptance of responsibility,  
14 Section 3E1.1(a), minus 2.

15           Total Offense Level: 11.

16           This level carries a range of imprisonment of 8 to  
17 14 months, assuming the defendant falls within criminal  
18 history Category 1.

19           Dated: Brooklyn, New York, March 28th, 2017,  
20 Bridget M. Rohde, Assistant United States Attorney, Eastern  
21 District of New York, by Robert T. Polemeni, Assistant United  
22 States Attorney, with a cc shown to the Clerk of the Court  
23 (WFK), via ECF, and defense counsel via e-mail and ECF.

24           I would just note that the plea agreement -- Plea  
25 Penalty Sheet I just read was not physically signed by the



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1 Assistant United States Attorney.

2 Do we have a signed version of that?

3 MR. POLEMENI: I can do it right now.

4 THE COURT: Why don't you do that.

5 And is that acceptable that we have that as a Court  
6 Exhibit 2?

7 MR. FODEMAN: Yes, Judge. No objection to that.

8 THE COURT: Any objection to anything that I have  
9 read about the Plea Penalty Sheet accurately read?

10 MR. FODEMAN: It was accurately read. Just two  
11 points I would like to make.

12 THE COURT: Yes. Absolutely. Make them slowly, so  
13 the reporter can get them.

14 MR. FODEMAN: Fair enough, Judge. Thank you.  
15 First, with respect to footnote one, and I think this is  
16 obvious to all the parties in the Court, but just for  
17 Ms. Lenich's benefit, obviously these are estimates, these  
18 guidelines. And while they are not binding on the Court, the  
19 Probation Department or the government, they're also not  
20 binding on the defense either, and there will be a probation  
21 report, and, obviously, we'll have an opportunity to address  
22 the applicability of the guidelines at sentencing.

23 THE COURT: There's no objection to that statement,  
24 is there?

25 MS. CRUZ MELENDEZ: No, your Honor.

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1 MR. FODEMAN: And the other -- thank you, Judge.  
2 The other point, just to point out -- and I understand that  
3 this is the government's estimate, but in the interest of  
4 being fulsome and completely accurate, the range -- the total  
5 offense level, as calculated by the government, totalling 11,  
6 it does carry a range of 8 to 14 months, but it also falls  
7 within Zone C of the sentencing chart, making -- if this turns  
8 out to be the applicable range, then the sentence can be  
9 served, if your Honor were inclined, by way of house arrest or  
10 halfway house. I just wanted to point that out for the  
11 record.

12 THE COURT: Any objection to that comment?

13 MS. CRUZ MELENDEZ: That's the government's  
14 understanding as well.

15 THE COURT: Anything else?

16 MR. FODEMAN: Nothing further. Thank you, Judge.

17 THE COURT: You're welcome.

18 The only thing I would note -- and it's a minor  
19 point -- on page 2, paragraph 6, that refers to the \$100  
20 special assessment. Under 18 U.S.C. Section 3013, it's my  
21 understanding that that's \$100 per count and per individual.

22 Is that the government's understanding?

23 MS. CRUZ MELENDEZ: Yes, your Honor.

24 THE COURT: Is that defense counsel's understanding  
25 as well?

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1 MR. FODEMAN: Yes.

2 THE COURT: I've been paying attention, in the  
3 five-and-a-half years I've been on the bench.

4 MR. FODEMAN: I missed that one.

5 THE COURT: That's why they pay me the big bucks. I  
6 don't take credit for this; the law clerks figure these things  
7 out. All right.

8 MS. CRUZ MELENDEZ: Your Honor, would you like  
9 Mr. Polemeni to incorporate Court Exhibit 2 now?

10 THE COURT: Why don't you sign it now, and we will  
11 have Court Two that is part of the physical record with the  
12 signature. And that will be on ECF, so defense counsel will  
13 be able to have a copy of the signed version as well, but  
14 that's the only change that's been made to Court Two that we  
15 have.

16 MR. FODEMAN: Understood, Judge. Thank you.

17 THE COURT: Is that acceptable with all parties?

18 MS. CRUZ MELENDEZ: Yes, your Honor.

19 MR. FODEMAN: It is, Judge.

20 THE COURT: Ms. Lenich, unless your counsel or the  
21 prosecution counsel wishes to be heard, or has an objection or  
22 further comment, at this time, the Court believes we will now  
23 turn to the final procedures for taking your plea in this  
24 case. Are you ready to proceed to that?

25 MS. CRUZ MELENDEZ: Yes.

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1 MR. FODEMAN: Yes.

2 THE COURT: Ms. Lenich, your attorney advises  
3 this Court that you wish to plead guilty to Counts One and  
4 Counts Two of the Indictment, and that you are aware of the  
5 contents of the Indictment and the Plea Penalty Sheet, both of  
6 which I have just read to you. Do you wish me to read either  
7 or both of them to you again?

8 THE DEFENDANT: No, your Honor.

9 THE COURT: And are you, in fact, aware of their  
10 contents?

11 THE DEFENDANT: Yes.

12 THE COURT: Thank you. Just ask you to keep your  
13 voice up using the microphone. I say again this is a serious  
14 decision, and I must be certain that you make it understanding  
15 your rights and the consequences of your plea.

16 Do you understand that having been sworn to tell the  
17 truth to this Court you must do so, and if you were to lie to  
18 this Court deliberately, in response to any question I ask  
19 you, you could and would face further criminal charges for  
20 perjury? Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: If you need me to repeat anything, you  
23 have only to ask. It is important that you understand  
24 everything that goes on in these proceedings; is that clear,  
25 ma'am?

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1 THE DEFENDANT: Yes.

2 THE COURT: Ms. Lenich, I must be certain that  
3 whatever decision you make today, you make with a clear head,  
4 so I'm going to ask you some questions about your health.

5 Are you presently or have you recently been under  
6 the care of any kind of doctor, psychiatrist, physician, or  
7 psychologist for any reason?

8 THE DEFENDANT: No, your Honor.

9 THE COURT: In the past 24 hours, ma'am, have you  
10 taken any pills, any drugs, or any medicine of any kind?

11 THE DEFENDANT: No.

12 THE COURT: Have you ever been hospitalized or  
13 treated for any drug-related problem?

14 THE DEFENDANT: No.

15 THE COURT: Have you ever participated in any  
16 court-ordered drug treatment program?

17 THE DEFENDANT: No.

18 THE COURT: In the past 24 hours, ma'am, have you  
19 consumed any alcoholic beverage?

20 THE DEFENDANT: No, your Honor.

21 THE COURT: Have you ever been hospitalized or  
22 treated for any alcohol-related problem?

23 THE DEFENDANT: No.

24 THE COURT: Have you ever participated in a  
25 court-ordered alcohol treatment program?

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1 THE DEFENDANT: No.

2 THE COURT: Is your mind clear as you sit here  
3 today?

4 THE DEFENDANT: Yes.

5 THE COURT: Do you understand everything being said  
6 to you?

7 THE DEFENDANT: Yes.

8 THE COURT: Defense counsel, have you discussed the  
9 question of a guilty plea with your client?

10 MR. FODEMAN: Yes, Judge.

11 THE COURT: In your view, sir, does she understand  
12 the rights she would be waiving by pleading guilty?

13 MR. FODEMAN: In my view, she does.

14 THE COURT: Defense counsel, do you have any  
15 question as to your client's competence to proceed today?

16 MR. FODEMAN: None, Judge.

17 THE COURT: Ms. Lenich, are you satisfied with the  
18 assistance your attorney has given you thus far in your case?

19 THE DEFENDANT: Yes.

20 THE COURT: Do you believe you have received  
21 effective assistance of counsel in your case?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: If you believe to have not received  
24 effective assistance of counsel, you have the right to appeal  
25 on that basis; do you understand that?

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1 THE DEFENDANT: Yes.

2 THE COURT: Counsel for the defendant, do you feel  
3 that you need more time to discuss the question of guilty plea  
4 with your client?

5 MR. FODEMAN: No, your Honor.

6 THE COURT: Ms. Lenich, I have read to you the  
7 Indictment and again read the penalty sheet, and I'll ask you  
8 again do you need me to read them out loud to you again, as I  
9 have done?

10 THE DEFENDANT: No.

11 THE COURT: Now, ma'am, you have a right to plead  
12 not guilty. No one can be forced to plead guilty; do you  
13 understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: If you plead not guilty, or if you  
16 persist in your plea of not guilty, you have a right under the  
17 Constitution and the laws of the United States of America to a  
18 speedy trial and a public trial before a jury of your peers,  
19 with the assistance of your counsel; do you understand?

20 THE DEFENDANT: Yes.

21 THE COURT: At any trial, ma'am, you would be  
22 presumed to be innocent. You would not have to prove that you  
23 were innocent. This is because under the laws of the  
24 United States it is the United States government that must  
25 come forward with proof that establishes beyond a reasonable

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1 doubt that you are, in fact, guilty of the crime charged. If  
2 the government failed to meet this burden of proof, the jury  
3 would have the duty to find you not guilty. Do you  
4 understand?

5 THE DEFENDANT: Yes.

6 THE COURT: During the course of a trial, witnesses  
7 for the government would have to come here to this courtroom  
8 and to testify in your presence; you would have the right to  
9 have your lawyer cross-examine these witnesses. Your lawyer  
10 could raise legal objections to the evidence the government  
11 sought to offer against you. Your attorney could offer  
12 evidence on your behalf if you thought there was evidence that  
13 might help you in your case. Your lawyer could compel  
14 witnesses to come to court and to testify in your defense if  
15 you thought that would be helpful to your case. Do you  
16 understand?

17 THE DEFENDANT: Yes.

18 THE COURT: At a trial, you would have the right to  
19 testify on your own behalf if you wish to do so. On the other  
20 hand, you could not be forced to be a witness at your trial.  
21 This is because under the Constitution, and the laws of the  
22 United States of America, no person can be compelled to be a  
23 witness against themselves. If you wish to go to trial but  
24 chose not to testify, this Court would instruct the jury that  
25 it could not hold that against you. Do you understand?



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25

1 THE DEFENDANT: Yes.

2 THE COURT: If instead of going to trial, however,  
3 you elect to plead guilty to the crime charged, and if I  
4 accept your guilty plea, you will be giving up your right to a  
5 trial and all the other rights I have just discussed with you.  
6 Here, there will be no trial in this case. There will be no  
7 appeal on the question of whether you did or you did not  
8 commit the crime set forth in Count One and Count Two of the  
9 Indictment. Do you understand?

10 THE DEFENDANT: Yes.

11 THE COURT: If you do plead guilty, I will have to  
12 ask you certain questions about what you did and where you did  
13 it, in order to satisfy myself that you are, in fact, guilty  
14 of all the charges contained in Count One and Count Two of the  
15 Indictment. You will have to answer my questions and to  
16 acknowledge your guilt. If you do this, you will be giving up  
17 your right not to incriminate yourself. Do you understand?

18 THE DEFENDANT: Yes.

19 THE COURT: Ms. Lenich, are you willing to give up  
20 your right to a trial and all the other rights I have just  
21 discussed with you?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Is there any agreement that has been  
24 reached with you or made with you in order to get you to plead  
25 guilty?

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1 THE DEFENDANT: No.

2 THE COURT: Ms. Lenich, do you understand the  
3 consequences of pleading guilty to all the charges contained  
4 in Counts One and Count Two of the Indictment and term of  
5 incarceration?

6 THE DEFENDANT: Yes.

7 THE COURT: Let me take you back to the penalty  
8 sheet, the Plea Penalty Sheet, that is in evidence as  
9 Court Exhibit 2, with respect to the information relative to  
10 sentencing. Paragraph A of the Plea Penalty Sheet sets out  
11 statutory terms that you face. These are the penalties  
12 written directly by Congress for violations of the statute you  
13 were charged with today. You face a maximum term of 5 years  
14 of imprisonment for each count. Do you understand?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you understand those counts can be --  
17 sentences can be imposed consecutively. Do you understand  
18 that?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: You face a minimum term of zero years of  
21 imprisonment; do you understand?

22 THE DEFENDANT: Yes.

23 THE COURT: You face a maximum term of 3 years of  
24 supervised release, following any term of imprisonment. Do  
25 you understand?

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1 THE DEFENDANT: Yes.

2 THE COURT: If you violate a condition of release,  
3 you may be sentenced to up to 2 years of imprisonment without  
4 credit for prerelease imprisonment or time previously served  
5 on post-release supervision. Do you understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: You face as well a maximum fine in the  
8 amount of \$250,000. Do you understand?

9 THE DEFENDANT: Yes.

10 THE COURT: You face restitution in a mandatory  
11 amount to be determined by the Court at the time of  
12 sentencing. Do you understand?

13 THE DEFENDANT: Yes.

14 THE COURT: You face a mandatory special assessment  
15 of \$100 per count, which I am required to impose in all cases  
16 per person, per count. Do you understand?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: You face criminal forfeiture to be  
19 determined at sentencing. The government will seek forfeiture  
20 of all right, title and interest in any electronic, mechanical  
21 or other device used, sent, carried, manufactured, assembled,  
22 possessed, sold or advertise in violation of Title 18,  
23 United States Code, Section 2511(1)(a), and/or as substitute  
24 assets, pursuant to 18 U.S.C., Section 2513, Section 21 U.S.C  
25 Section 853(P) and 28 U.S.C. Section 2461C.

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1           The sentences imposed on Counts One and Counts Two,  
2 as a said previously, may run consecutively; do you understand  
3 that?

4           THE DEFENDANT: Yes.

5           THE COURT: Ms. Lenich, this is a sentence  
6 guidelines case, so in sentencing you, the Court will have to  
7 consider certain guidelines. These guidelines do not control  
8 the Court but they inform the Court.

9           Has defense counsel discussed the sentencing  
10 guidelines with the defendant?

11          MR. FODEMAN: Yes.

12          THE COURT: Is that true, ma'am?

13          THE DEFENDANT: Yes.

14          THE COURT: When the Court sentences you, the Court  
15 will have to consider certain factors about you and about  
16 Counts One and Count Two of the indictment, as your counsel  
17 earlier pointed out today. That inquiry will lead this Court  
18 to consideration of the guideline sentencing range that I read  
19 to you earlier from Exhibit 2. You need me to read it aloud  
20 again?

21          THE DEFENDANT: No thank you.

22          THE COURT: The Court is empowered to impose a  
23 sentence which is less than equal to or greater than that  
24 provided by the guidelines, subject always to the mandatory  
25 minimums and to the maximums set forth in the statute, but in

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1 all cases, including this one, this Court must and this Court  
2 will consult the guidelines concerning the range of sentence  
3 before the Court. Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: Now, before the Court imposes sentence,  
6 this Court will receive a full report prepared by the  
7 Probation Department, which will recommend a particular  
8 sentence to the Court. You and your counsel will have the  
9 opportunity to see that report, to review it, and if you think  
10 that that report is mistaken, incomplete or simply wrong in  
11 any way, you will have the opportunity to bring that to the  
12 attention of this Court.

13 Now, ma'am, do you have any questions you would like  
14 to ask this Court, at this time?

15 THE DEFENDANT: No thank you.

16 THE COURT: Does defense counsel have any questions  
17 for the Court, at this time?

18 MR. FODEMAN: No, your Honor. Thank you.

19 THE COURT: Is there anything else defense counsel  
20 would like the Court to address, at this time?

21 MR. FODEMAN: No thank you.

22 THE COURT: Does the Assistant United States  
23 Attorney have any questions for the Court?

24 MS. CRUZ MELENDEZ: No, your Honor.

25 THE COURT: Is there anything else the Assistant

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1 United States Attorney would like the Court to address, at  
2 this time?

3 MS. CRUZ MELENDEZ: No, your Honor.

4 THE COURT: Defense counsel, do you know of any  
5 reason why your client should not enter a plea of guilty to  
6 Count One of the indictment?

7 MR. FODEMAN: No, your Honor.

8 THE COURT: Defense counsel, do you know of any  
9 reason why your client should not enter a plea of guilty to  
10 Count Two of the indictment?

11 MR. FODEMAN: No, your Honor.

12 THE COURT: Defense counsel, are you aware of any  
13 viable legal defense that the charges contained in Count One  
14 of the Indictment?

15 MR. FODEMAN: No, your Honor.

16 THE COURT: Defense counsel, are you aware of any  
17 viable legal defense contained to Count Two to the charges  
18 contained in Count Two of the indictment?

19 MR. FODEMAN: No, your Honor.

20 THE COURT: Ms. Lenich, are you ready to plead?

21 THE DEFENDANT: Yes.

22 THE COURT: How do you plead to the charges  
23 contained in Count One of the Indictment filed in this case;  
24 guilty or not guilty?

25 THE DEFENDANT: Guilty, your Honor.

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1 THE COURT: Ms. Lenich, how do you plead to the  
2 charges contained in Count Two of the Indictment filed in this  
3 case; guilty or not guilty?

4 THE DEFENDANT: Guilty.

5 THE COURT: Are you making this plea of guilty  
6 voluntarily and of your own free will?

7 THE DEFENDANT: Yes.

8 THE COURT: Has anyone threatened you or forced you  
9 to plead guilty?

10 THE DEFENDANT: No.

11 THE COURT: Has anyone made you any promise that  
12 caused you to plead guilty?

13 THE DEFENDANT: No.

14 THE COURT: Has anyone made you any promise about  
15 the sentence you will receive from this Court in this case if  
16 you plead guilty?

17 THE DEFENDANT: No, your Honor.

18 THE COURT: Please describe briefly and slowly in  
19 your own words what you did to commit the crimes charged in  
20 Counts One and Count Two of the Indictment and where you did  
21 it.

22 THE DEFENDANT: Between approximately 2015 and 2016,  
23 while I was working at the Kings County District Attorney's  
24 Office, here in Brooklyn, I intentionally forged court orders  
25 that allowed me to wiretap cell phones for two different

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1 people and overhear those conversations. I knew the conduct  
2 was illegal, and I'd just like to apologize and say I am so  
3 sorry for my actions and for anyone that it affected.

4 THE COURT: On how many occasions, with respect  
5 to -- perhaps we can do this with respect to each of the  
6 telephones, if you're prepare today do that. These are the  
7 counts. On how many occasions did you falsify the names of  
8 judicial officers?

9 THE DEFENDANT: The numbers in the Indictment,  
10 your Honor, seem correct.

11 THE COURT: Is that with respect to both Count One  
12 and Count Two?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Were the intercepts involving wired  
15 communications and oral communications and electronic  
16 communications of others that were transmitted in interstate  
17 commerce?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: As you understand that term to mean?

20 THE DEFENDANT: Yes.

21 THE COURT: And are the dates as set forth in the  
22 indictment the accurate dates, as far as you're concerned?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: And where did you engage in that  
25 activity and what judicial district of the United States?



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1 THE DEFENDANT: Here, in Brooklyn.

2 THE COURT: Here, in the Eastern District of  
3 New York?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: And did you engage in these activities  
6 anywhere other than the Eastern District of New York, other  
7 than Brooklyn, Queens, Long Island?

8 THE DEFENDANT: No, your Honor.

9 THE COURT: They all occurred here, in the Eastern  
10 District of New York?

11 THE DEFENDANT: Manhattan.

12 THE COURT: But mainly here in the Eastern District  
13 of New York; is that fair to say?

14 THE DEFENDANT: Yes, your Honor.

15 MR. FODEMAN: Judge, as you know -- maybe you didn't  
16 know this. We have waived --

17 THE COURT: I was just about to ask the government  
18 if there was anything else that they wanted me to ask, but you  
19 can --

20 MR. FODEMAN: Just to clarify Ms. Lenich's colloquy,  
21 we've waived any discovery, so with respect to the number of  
22 orders or the time frame, the precise date, we have no  
23 objection. I don't think Ms. Lenich quibbles with the dates,  
24 but we certainly can't say with absolute certainty that the  
25 dates are precisely right.

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1 THE COURT: And the Indictment does use the language  
2 "on or about," so I take it that language is acceptable to the  
3 defendant?

4 MR. FODEMAN: Absolutely.

5 THE COURT: Is that right, ma'am?

6 THE DEFENDANT: Yes.

7 THE COURT: Anything else the government would like  
8 the Court to ask, at this time?

9 MS. CRUZ MELENDEZ: Yes, your Honor, two things.

10 THE COURT: Slowly and loudly.

11 MS. CRUZ MELENDEZ: With regard to the actual  
12 interception and monitoring of the communications, if  
13 the Court could ask whether or not the defendant used a  
14 mechanical device, or other device, in order to monitor the  
15 communications?

16 THE COURT: Why don't you read the question back so  
17 we have it, madam reporter.

18 (The reporter reads back.)

19 MS. CRUZ MELENDEZ: In intercept --

20 THE COURT: Did you use mechanical device or other  
21 device in order to monitor the communications, is the question  
22 I put to you, that has been asked me to put to you by the  
23 prosecutors.

24 THE DEFENDANT: I used the computer.

25 THE COURT: As mechanical device or other device,

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1 yes?

2 THE DEFENDANT: Yes.

3 MS. CRUZ MELENDEZ: Your Honor, the next question  
4 would be whether the defendant committed the conduct that  
5 she's allocuted to without statutory authorization or  
6 exemption under the applicable statutes.

7 (The reporter reads back.)

8 THE COURT: I adopt the question.

9 THE DEFENDANT: I had no authorization, your Honor,  
10 no statutory authorization.

11 THE COURT: Anything else?

12 MS. CRUZ MELENDEZ: Nothing from the government,  
13 your Honor.

14 THE COURT: Anything else from defense counsel?

15 MR. FODEMAN: No, your Honor.

16 THE COURT: Anything else the defendant would like  
17 to state, at this time?

18 THE DEFENDANT: No, your Honor.

19 THE COURT: Based upon the information provided to  
20 this Court, I find that the defendant is acting voluntarily,  
21 and that she fully understands the charges, her rights, and  
22 the consequences of her plea. There is, moreover, a factual  
23 basis for the plea; I, therefore, accept the plea of guilty to  
24 all the charges contained in both Counts One and Count Two of  
25 the Indictment.

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1 I hereby order the Probation Department to provide  
2 the presentence investigation report to this Court as soon as  
3 possible, in any event, within six months from this date,  
4 which would be on/or before October 3rd of 2017.

5 Now, is there anything further that either counsel  
6 wishes to state to the Court today?

7 MR. FODEMAN: No, your Honor.

8 MS. CRUZ MELENDEZ: No, your Honor.

9 THE COURT: Thank you. Court is adjourned. Thank  
10 you all.

11 MR. FODEMAN: Thank you.

12 (Proceedings adjourned.)

13

14 \* \* \*

15

16 I certify that the foregoing is a true and correct  
17 transcription of the record from proceedings in the  
above-entitled case.

18 /s/ Nicole Canales  
19 Nicole Canales

January 29, 2018  
Date

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